

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA

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|---------------------------|---|---------------------|
| UNITED STATES OF AMERICA, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | Case No. CR-96-84-D |
| |) | |
| HAROLD EUGENE BELL, |) | |
| |) | |
| Defendant. |) | |

ORDER

This matter comes before the Court upon a filing by Defendant, through counsel, denominated as a combined Notice of Appeal and Request for Certificate of Appealability [Doc. No. 353]. Defendant states that he “seeks a Certificate of Appealability from the denial of his habeas corpus petition by the District Court for the Western District of Oklahoma.” *See* Motion, p.4.

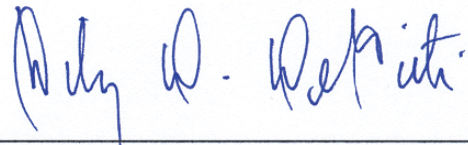
On October 28, 2016, this Court issued an order denying Defendant’s motion pursuant to 28 U.S.C. § 2255 for relief from a sentence of life imprisonment. The Court also denied a certificate of appealability, finding that in light of *United States v. McGee*, 625 F. App’x 847 (10th Cir. 2015), “Defendant’s § 2255 claim does not satisfy the criteria for issuance of a COA.” *See* Order 10/28/16 [Doc. No. 351], p.5.

In Defendant’s current filing, he neither acknowledges this ruling nor presents any proper basis to reconsider it. He instead argues only the merits of his § 2255 claim and, in so doing, disregards Tenth Circuit authority on which the Court’s ruling was based.

See id., pp.3-4 (discussing *United States v. Dyke*, 718 F.3d 1282 (10th Cir. 2013)). Further, Defendant's arguments are presented in a manner that suggests they are intended for consideration by the court of appeals. He refers to this Court as "the Court below" (*see* Motion, pp.5,12) and asks the court of appeals (addressed as "this Court") to hear his appeal. *See id.* p.13. Accordingly, the Court finds that Defendant should present his arguments to the appellate court in an appropriate filing in that court. In this proceeding, the question of whether a certificate of appealability should issue has already been decided.

IT IS THEREFORE ORDERED that Defendant's Request for a Certificate of Appealability [Doc. No. 353] is DENIED.

IT IS SO ORDERED this 17th day of November, 2016.



TIMOTHY D. DEGIUSTI
UNITED STATES DISTRICT JUDGE